

**FILED**

FEB 09 2012

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CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

\*\*\*\*\*

YANKTON FACTORING, INC.  
a South Dakota Corporation

PLAINTIFF,

VS.

WYLIE BICE TRUCKING, INC.  
a North Dakota Corporation

DEFENDANT.

COMPLAINT

CIV 12-4023

\*\*\*\*\*

Plaintiff, for its Complaint against Defendants, states and alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Yankton Factoring, Inc. ("Plaintiff" or "Yankton") is a South Dakota with its principal place of business in Yankton, South Dakota.
2. Defendant Wylie Bice Trucking, Inc. ("Defendant" or "Wylie") is a North Dakota corporation with its principal place of business in Killdeer, North Dakota.
3. Jurisdiction is proper pursuant to 28 U.S.C. §1332(a).
4. Venue is proper to 28 U.S.C. §1391(a) and (b).

**GENERAL ALLEGATIONS**

5. Plaintiff re-alleges all paragraphs and allegations set forth herein.
6. Yankton is engaged in the business of providing working capital solutions to businesses by financing and/or purchasing their accounts receivable.
7. Plaintiff purchased the accounts of Montana Midwest, Inc.
8. That Montana Midwest, Inc. provided motor carrier services to the Defendant.

9. That as a result of the rendition of services, Montana Midwest created invoices evidencing the accounts due. A summary of the invoices is attached hereto as Exhibit "A" and incorporated herein by reference.
10. That Plaintiff purchased the invoices shown on Exhibit "A", notified the Defendant of the assignment and purchase, and Plaintiff is entitled to collect payment on the invoices shown on Exhibit "A".

**FIRST CLAIM FOR RELIEF**  
**(Breach of Contract and Debt against Defendant)**

11. Plaintiff re-alleges and incorporates all paragraphs previously set forth herein.
12. Defendant breached its contract with Montana Midwest, and Plaintiff as Montana Midwest assignee, by failing to pay for the services and subsequent invoices shown on Exhibit "A".
13. Montana Midwest and Yankton have fully performed all obligations and contractual agreements with the Defendant.
14. Defendant has breached its contract with Montana Midwest, and Plaintiff as its assignee, in that it has failed to pay for the services rendered and evidenced by the invoices shown on Exhibit "A".

**SECOND CLAIM FOR RELIEF**  
**(Unjust Enrichment against Defendant)**

15. Plaintiff re-alleges all paragraphs and allegations previously set forth herein.
16. As set forth herein, Montana Midwest conferred a benefit upon Defendant in that it transported freight for the Defendant.
17. Defendant had knowledge of the benefit.
18. Under the circumstances set forth herein, it is inequitable for Defendant to retain those benefits without payment therefor.

WHEREFORE, Plaintiff prays as follows:

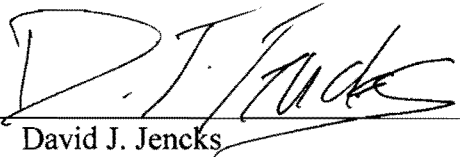
1. For judgment against Defendant Wylie Bice Trucking, Inc. in the amount of \$351,132.16.
2. For an award of attorneys' fees and costs in favor of Plaintiff to the maximum extent allowed by law.

3. For an award of pre-judgment and post-judgment interest in favor of Plaintiff to the maximum extent allowed by law.
4. For such other and further relief as the Court deems just, equitable and proper.

Dated this 8 day of February, 2012.

JENCKS & JENCKS, P.C.

By: \_\_\_\_\_



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